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**IN THE
COURT OF APPEALS OF INDIANA**

ANTWUAN DAVIS,)
)
Appellant-Defendant,)
)
vs.)
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

No. 49A04-0811-CR-647

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Annie Christ-Garcia, Judge
Cause No. 49F17-0807-FD-175751

MAY 14, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

HOFFMAN, Senior Judge

Antwuan Davis (“Davis”) appeals his conviction after a bench trial of one count of resisting law enforcement¹ as a Class A misdemeanor. Davis presents the following restated issue for our review: whether there is sufficient evidence to support Davis’s conviction of resisting law enforcement.

We affirm.

FACTS AND PROCEDURAL HISTORY

On July 25, 2008, Indianapolis Metropolitan Police Department Officers Jerry Torres and Geoffrey Barbieri were dispatched to the location of a domestic disturbance. Officer Torres spoke with the alleged victim then placed Davis in custody, handcuffing him and ordering him to sit on the couch in the living room. Officer Barbieri, who was watching Davis while Officer Torres went to his patrol car, observed Davis start to breathe heavily nearly hyperventilating. Officer Barbieri told Davis several times to calm down, but Davis ultimately jumped up from the couch and ran in the direction of a doorway and a large screen television. Officer Barbieri told Davis to stop running and get on the floor, but Davis refused to comply. As Officer Barbieri attempted to grab Davis’s arm, Davis turned to the left and ran toward an aquarium.

The State charged Davis with numerous counts arising from the events on July 25, 2008. However, all of the counts were dismissed prior to trial except for the count charging Davis with resisting law enforcement as a Class A misdemeanor. After Davis’s September 8, 2008 bench trial, he was found guilty of resisting law enforcement and was sentenced to 120 days in jail. Davis now appeals.

¹ See Ind. Code § 35-44-3-3(a)(3).

DISCUSSION AND DECISION

Davis argues that there is insufficient evidence to support his conviction of resisting law enforcement. More specifically, Davis challenges the sufficiency of the evidence that he was fleeing from Officer Barbieri.

Our standard of review for a challenge to the sufficiency of the evidence is well-settled. When reviewing claims of insufficiency of the evidence, we neither reweigh the evidence nor judge the credibility of the witnesses. *Klaff v. State*, 884 N.E.2d 272, 274 (Ind. Ct. App. 2008). If there is sufficient evidence of probative value to support the conclusion of the trier of fact then the conviction will not be disturbed. *Trimble v. State*, 848 N.E.2d 278, 279 (Ind. 2006).

In the present case, the State was required to establish beyond a reasonable doubt that Davis knowingly or intentionally fled from a law enforcement officer after the officer had by visible or audible means identified himself and ordered the person to stop. *See* Ind. Code § 35-44-3-3-(a)(3). Flight is the knowing attempt to escape law enforcement when the defendant is aware that a law enforcement officer has ordered him to stop or remain in place once there. *Wellman v. State*, 703 N.E.2d 1061, 1063 (Ind. Ct. App. 1998).

Our review of the record leads us to the conclusion that the evidence is sufficient to support Davis's conviction. He had been placed in custody, handcuffed and ordered to sit on the couch in the living room. Officer Barbieri watched Davis while Officer Torres completed some paperwork and observed Davis begin to breathe heavily. Officer Barbieri told Davis to calm down at which point Davis jumped up from the couch and

began running toward a television to the right of which was a door, away from Officer Barbieri, who was loudly ordering Davis to stop and get on the ground. Davis refused to comply continuing to run and ultimately slamming into an aquarium. Davis's argument that he was attempting to break the aquarium because he felt he was going to jail for coming in the house late, is merely an attempt to invite this court to reweigh the evidence.

Affirmed.

BAKER, C.J., and CRONE, J., concur.